



The Honourable Judge Rebecca Beach Smith  
Senior United States District Judge  
United States District Court  
Eastern District of Virginia  
Norfolk Division

CIVIL ACTION NO. 2:93cv902

**For the attention of the Honourable Judge Smith**

Magellan received the above referenced original paper copy Titanic Order at our offices 12<sup>th</sup> September. We note the Order Issue date was 15<sup>th</sup> August 2022, and the email delivery of the same to a '*logistics@magellan.gg*' email address. Unfortunately the '*Logistics*' email address used is not an email address for Service of papers because it is not monitored by the appropriate persons and this contributed to the time taken for us to issue our response.

Magellan does wish to respond to the content of this Order and seek to remove all the concerns raised within that Order.

Magellan also believes it would be helpful to the Court to provide a simple chronological summary of the historic dialogue between Magellan and the Plaintiff, RMST, and the efforts by Magellan to seek further detailed discussions with regards the planned expedition.

Magellan would also highlight that detailed and collaborative engagement with RMST is clearly evidenced going back to 2020 when both Magellan and RMST made a joint application to this Court for the planned expedition to conduct mapping and analysis with the intention of using this data to draft a detailed plan for removal of the Marconi Radio. The detail of this Radio removal was drafted in a Memorandum of Understanding (MOU), and all communication and correspondence from Magellan to RMST between the period May 2022 to date was clear in the subject matter being the further discussion and ultimate agreement of the MOU. Magellan now understand from the content of this Order issued (2:93cv902) that the work to remove the Marconi Radio has now been cancelled. Magellan were not aware this had in fact been cancelled until we read it in this Order issued, nor had this been communicated to Magellan by RMST in any of the engagement discussions to date.

Magellan does not wish to make any suggestions or inferences in the provision of this chronology beyond simple evidence that Magellan has made continuous proactive efforts to engage with RMST, and Magellan does not understand how this proactive engagement is consistent with the Order that has been issued. Magellan has made many attempts to seek meetings with RMST starting in May 2022 which also included an 'in person' meeting offer in America.

Magellan does note the Order makes no direct accusations Magellan.



Magellan would, however, wish to confirm to the Norfolk Court Division that Magellan does believe it continues to have good, open, honest dialogue with RMST, and Magellan is in full support of RMST Inc in their role as Salvor to the wreck. Magellan believes this is evident in our conclusion to Order #1 below, where, in the words of RMST, Magellan's plans were now regarded as '*...tremendously helpful.....*' for RMST.

#### **ORDER DIRECTIONS**

##### **1. RMST to further Investigate Magellan's Activity**

Magellan does recognise that a detailed discussion meeting between RMST and Magellan has taken longer to set up and confirm in diaries than would be preferred, however, the chronology illustrates this is a scheduling complication only which has been equally difficult to coordinate between both RMST and Magellan diaries. Both Magellan and RMST have been equal in their effort to find a meeting date/time that worked and this was more complicated given the geography and time difference between the Magellan and RMST.

With specific regard to this ORDER, Magellan would confirm that video calls have now been held between RMST and Magellan, and in fact those calls had been scheduled and held (11<sup>th</sup> & 12<sup>th</sup> Aug) before this ORDER was issued (15<sup>th</sup> Aug). Further illustration of Magellan good faith intentions towards RMST.

The result of those video calls was an open dialogue in which assurances and specific request information was agreed to be shared from Magellan to RMST. Magellan would note, this objective had always been the intent as per the chronology.

Magellan provided RMST with the Draft Dive Plan (DDP) in line with the format and content requirements required by RMST. Subsequent dialogue resulted in very minor iterations being added into the DDP at the specific request of RMST which Magellan complied with.

By way of positive conclusion, it is the understanding of Magellan that RMST now accepts the expedition is in their own words "*...tremendously helpful for our [RMST] position....*". Magellan therefore believes that RMST will have provided further Periodic Report updates to this Court that we assume now satisfy the Orders issued under CIVIL ACTION NO 2:93cv902.



**2. RMST promptly provide the court with learnings of the Magellan Expedition**

Magellan understands that following emails, telephone calls and the content of a Draft Dive Plan (DDP) that RMST has now updated the court. Magellan has not seen the content of the Periodic Court update, but we understand that RMST will have informed the court that Magellan confirmed:

- (1) Magellan has confirmed the Expedition will not touch the wreck (and never had any intention of doing so).
- (2) Magellan will not perform any action that will damage RMST in its capacity as Salvor to the Titanic Wreck.
- (3) That RMST is satisfied that the expedition is appropriate and has taken the required measures of control, safety, skilled personnel, and planning.
- (4) RMST have reviewed the DDP provided and have raised no concerns.

Accordingly, Magellan understands that RMST is now satisfied with the expedition.

**3. The Clerk [of the Court] to provide copy of the Order to Magellan and also copy to Jackie Rolleri at NOAA offices.**

Magellan confirms receipt of both original paper copy which was received in hard postal copy 12<sup>th</sup> September 2022, as well as the email delivery to the 'Logistics' email address. As per previous comment, the 'Logistics' email address used is not an email address for Service of papers and contributed to any perceived delay in our response.

Accordingly Magellan do believe they have provided full and transparent disclosure throughout the discussions and communication with RMST, as well as made equal attempt both previous and again to date, and Magellan are not aware of any outstanding questions or issues from either RMST or this Court.

We thank you for your attention to this matter and reiterate our continuing desire to provide open transparent dialogue if you require further.

Yours sincerely

A handwritten signature in black ink, appearing to be 'D. Thompson', written over the typed name and title.

David Thompson  
Group Chief Operating Officer

c: **Copy to Jackie Rolleri**  
National Oceanic and Atmospheric Administration, NOAA Office of the General Counsel  
Herbert C. Hoover Building, 14<sup>th</sup> and Constitution Ave NW, Washington D.C. 20230



## APPENDIX 1: CHRONOLOGY OF COMMUNICATION

**NB1:** Initial discussions and dialogue between Magellan and RMST commenced in 2020 with a view to establishing agreement (MOU) to map and then remove the Marconi Radio from the RMS Titanic Radio Room.

**NB2:** A detailed plan for the removal of the Marconi Radio was jointly submitted by RMST & Magellan to The Honourable Judge Smith. The impact of COVID ultimately paused this work until May 2022 when discussion were restarted.

**NB3:** Chronology therefore starts May 2022

**NB4:** There is a +5 hour time difference between Magellan & RMST which limits the working day for communication and replies

DATE 2022	Communication Method	Included Names	Event Description
15 May	Telephone Call	Magellan & RMST	Discussion & planning to work together on expedition to Vessel, specific detail of imaging works required to then Plan for Marconi Radio removal
16 May	Email	RMST to Magellan	Written confirmation of the telephone (15 <sup>th</sup> May) call content.
17 May	Email (several same date)	Between <ul style="list-style-type: none"> <li>Magellan to RMST</li> <li>RMST to Magellan</li> </ul>	<ul style="list-style-type: none"> <li>Confirmation content of email (16<sup>th</sup> May) accurate</li> <li>Additional words provided by Magellan to RMST to support the RMST periodic submission to court</li> <li>Confirmation 'verbatim' language provided by Magellan filed with Court</li> </ul>
18 May	Email	RMST to Magellan	Update RMST will meet its counsel in NY and draft LOI will be issued in couple days
19 May	Email	Magellan to RMST	Seeking details of Counsel and plan for engagement. Confirmation Magellan ready to engage.
31 <sup>st</sup> May	Email	Magellan to RMST	Magellan follow up with RMST seeking update on Court submission (re: radio room) and timetable for MOU draft document
01 June	Email	RMST to Magellan	Confirmation No specific Court reply but RMST seeking meeting with NOAA. RMST confirm draft MOU not yet ready.
06 June	Email	RMST to Magellan	<ul style="list-style-type: none"> <li>RMST provide draft MOU re: Marconi radio room planning</li> <li>Indicative MOU term 01 June – 31 Oct 2022 (with added flexibility expressed as/if required)</li> </ul>
Continued below			



29 June	Email	Magellan to RMST	<ul style="list-style-type: none"> <li>• Magellan acknowledge time to reply and provide explanation due to significant global travel</li> <li>• Introduced new Magellan employee name to help manage this process</li> <li>• Seeking meeting availability of RMST</li> </ul>
29 June	Email	RMST to Magellan	No availability for c.1 week (due to overseas travel).
13 July	Email	Magellan to RMST	<ul style="list-style-type: none"> <li>• (1<sup>st</sup> email) Magellan seeking meeting availability</li> <li>• Magellan indicates proposed timetable to visit vessel Site and to lock a meeting into diaries</li> <li>• (2<sup>nd</sup> email) New Magellan Group COO offering immediate availability next day thereafter being 14<sup>th</sup> or 15<sup>th</sup> July</li> </ul>
15 July	Email	RMST to Magellan	<ul style="list-style-type: none"> <li>• RMST offer availability 18<sup>th</sup> or 19<sup>th</sup> July.</li> <li>• RMST seeking availability additional attendees (not Magellan names) also</li> <li>• Magellan</li> <li>• No meeting date confirmed / No invite sent</li> </ul>
19 July	Email	Magellan to RMST	<ul style="list-style-type: none"> <li>• Seeking confirmation of call date &amp; time given no invite issued previous (being organised by RMST due to wider RMST attendee list names).</li> <li>• Reconfirmed Magellan available today (19<sup>th</sup>) &amp; tomorrow (20<sup>th</sup>)</li> </ul>
19 July	Email	RMST to Magellan	Confirmed next available dates 21 <sup>st</sup> & 22 <sup>nd</sup> July
20 July	Email	Magellan to RMST	Due to travel & holidays scheduled Magellan unavailable until 27 <sup>th</sup> to 29 <sup>th</sup> July (inclusive)
27 July	Email	RMST to Magellan	Suggested 29 <sup>th</sup> July as available
01 August	Email	Magellan to RMST	<ul style="list-style-type: none"> <li>• Magellan acknowledge reply is after proposed date but unavoidable personal issues arose</li> <li>• Magellan reiterate keen to make meeting date</li> </ul>
02 August	Email	Magellan to RMST	Magellan CEO offer face to face meeting in person in the USA as method of progressing discussions
02 August	Email	RMST to Magellan	RMST confirm they no longer wish to hold discussions with Magellan and withdraw from conversation
02 August	Email	Magellan to RMST	<ul style="list-style-type: none"> <li>• Magellan acknowledge in hindsight all sides should have held discussion by now, <u>but</u> critically <u>both</u> sides have struggled to organise collective diaries and schedule meeting date/time</li> <li>• Magellan reiterate its willingness to meet (including face to face in person offer) continues</li> </ul>

Continued Below



11 August	Email	3 <sup>rd</sup> Party to both (Magellan & RMST)	Mr David Gallo set up call to permit Magellan & RMST to re-engage discussions
11 August	Email	Magellan AND RMST	<ul style="list-style-type: none"> <li>Both Parties agreed discussion should be reinitiated</li> <li>Date agreed 12 Aug</li> </ul>
11 August	Email	Magellan to RMST and 3 <sup>rd</sup> Party	<ul style="list-style-type: none"> <li>Magellan issued video meeting for 12<sup>th</sup> Aug</li> <li>All parties accepted</li> </ul>
12 August	Email	RMST to Magellan	Request to delay meeting to later the same day
12 August	Email	Magellan to RMST	Magellan agreed and re-issued video meeting invite for new time requested by RMST
16 August	Email	Magellan to RMST	<ul style="list-style-type: none"> <li>Confirmation of what was discussed and agreed between Magellan and RMST</li> <li>Agreement all parties to sign NDA's</li> <li>Magellan to provide RMST with Draft Dive Plan</li> </ul>
16 August	Email	RMST to Magellan	Further documented requests to the NDA provided by RMST to Magellan
16 August	Email	Magellan to RMST	Magellan agreed to requested changes and that these were in consistent with the written summary issued earlier by Magellan
16 August	Email	RMST to Magellan	RMST confirms the data provided an updates by Magellan are appreciated and helpful and will be included in next periodic Court update.
16 August	Email	RMST to Magellan	RMST provide Signed NDA
20 August	Email	Magellan to RMST	Draft Dive Plan for Vessel site issued by Magellan to RMST
20 August	Email	RMST to Magellan	RMST confirm the Magellan Draft Dive Plan is "...tremendously helpful for our [RMST] position."
21 August	Email	Magellan to RMST	Magellan provide additional information as specifically requested by RMST in regards the Draft Dive Plan
21 August	Email	RMST to Magellan	RMST confirm periodic report to Court submitted with updated information including Draft Dive Plan
24 August	Email	Magellan to RMST	Magellan seeking update on Periodic Report submitted to Court by RMST